



# **Enforcement and Remedies Ordinance of Indianapolis-Marion County**

## **Chapter 730 of the Indianapolis Code**

Original: 88-AO-05, General Ordinance No. 122, 1988

Amended: 92-AO-05, General Ordinance No. 41, 1992

93-AO-06, General Ordinance No. 165, 1993

05-AO-01, General Ordinance No. 63, 2005 on July 11, 2005

06-AO-01, General Ordinance No. 3, 2007 on March 9, 2007

09-AO-01, General Ordinance No. 96, 2009 on September 21, 2009

09-AO-02, General Ordinance No. 97, 2009 on September 21, 2009

**CHAPTER 730 – ARTICLE VII      Enforcement and Remedies Ordinance**

**Sec. 730-500. Statement of purpose.**

This article is remedial and shall be construed in such a manner as to effectuate its purpose of promoting the public health, safety, comfort, morals, convenience and general welfare by enforcement of all zoning ordinances for all lands within Marion County, Indiana.

**Sec. 730-501. Definitions.**

As used in this article, the following words and phrases shall have the meanings ascribed to them in this section:

**Administrator** means the administrator of the bureau of license and permit services.

**Bureau of license and permit services** or **bureau** means the bureau of license and permit services of the department of code enforcement.

**Designated enforcement entity** means the Metropolitan Development Commission of Marion County, Indiana.

**Division of inspections** means the division of inspections of the department of code enforcement.

**Inoperable vehicle** means:

- (1) A motor vehicle, racing vehicle, recreational vehicle, trailer, camper, boat, airplane, bus, truck, or similar vehicle from which there has been removed engine, transmission or differential parts or that is otherwise partially dismantled or mechanically inoperable; or
- (2) Any motor vehicle, racing vehicle, recreational vehicle, trailer, camper, boat, airplane, bus, truck, or similar vehicle, which cannot be driven, towed or hauled on a city street without being subject to the issuance of a traffic citation by reason of its operating condition or the lack of a valid license plate.

**Inspectors** means employees of the division of inspections authorized by the Administrator to enter, examine and survey all lands within Marion County to accomplish the enforcement of all zoning ordinances and land use regulations of Marion County.

**Land use petition** means a rezoning petition, variance petition, approval petition, special exception petition, or any other petition permitted by the rules of procedure adopted by the Metropolitan Development Commission of Marion County or the Metropolitan Board of Zoning Appeals.

**Law enforcement officer** means any sworn member of the Marion County Sheriff's Department, Indianapolis Metropolitan Police Department, Beech Grove Police Department, Lawrence Police Department, Southport Police Department, Speedway Police Department or Cumberland Police Department, acting within their legal authority and jurisdiction.

**Site improvement** means the erection, construction, placement, repair, alteration, conversion, removal, demolition, maintenance, moving, razing or remodeling of any new or existing structure or any part thereof; any activity for which an Improvement Location Permit is required.

**Zoning districts** mean the districts depicted by the comprehensive zoning maps of Marion County, Indiana.

(G.O. 2, 2002, § 4; G.O. 63, 2005; G.O. 3, 2007; G.O. 96, 2009; G.O. 97, 2009)

**Sec. 730-502. Jurisdiction.**

- (a) The Metropolitan Development Commission of Marion County may institute a suit for injunctive and monetary relief in the municipal, circuit, or superior courts of Marion County, Indiana; such suit is to be brought in the name of and captioned as "The Metropolitan Development Commission of Marion County, Indiana," versus the person, persons or entity charged with violating the provisions of any zoning ordinance or land use regulations of Marion County, Indiana.
- (b) The Metropolitan Development Commission may also institute a suit for mandatory injunction directing a person, persons or entity to remove a structure erected in violation of any zoning ordinances or land use regulations of Marion County, Indiana.
- (c) A structure erected, raised, or converted, or land or premises used in violation of any zoning and land use ordinance of Marion County, Indiana, shall and hereby is declared to be a common nuisance and the owner or possessor of the structure, land, or premises shall be liable for maintaining a common nuisance pursuant to IC 36-7-4-1012.

**Sec. 730-503. Inspection of property; right of entry.**

- (a) The *Administrator, Inspectors and Law enforcement officers* are authorized to make inspections of all lands located within Marion County in order to enforce all zoning ordinances and land use regulations of Marion County, Indiana.
- (b) In order to execute inspections, the *Administrator, Inspectors and Law enforcement officers* shall have the right to enter upon any premises at any reasonable time for the purpose of carrying out his/her duties in the enforcement of zoning ordinances and land use regulations of Marion County, Indiana, unless the owner or occupant of the premises refuses to permit entry to the *Administrator, Inspectors or Law enforcement officers* when such entry is sought pursuant to this section. In the event of such refusal, the *Administrator* may make application to any judge of the municipal, circuit or superior courts of Marion County, Indiana, for the issuance of an administrative search warrant. Such application shall identify the premises upon which entry is sought and the purpose for which entry is desired. The application shall state the facts giving rise to the belief that a condition which is a violation of a zoning ordinance or land use regulation of Marion County, Indiana, exists on such premises, or that a violation in fact exists and must be abated, and that the condition or violation is not a lawful nonconforming use to the best of the affiant's belief. Any warrant issued pursuant to such application shall order such owner or occupant to permit entry to the *Administrator, Inspectors or Law enforcement officers* for the purposes stated therein. In no event shall the *Administrator, Inspectors or Law enforcement officers* have the right to enter a residential structure or other structures not open to the public without the permission of the owner or occupant and/or an administrative search warrant first obtained. Prior to entering such residential structure or other structure not open to the public, the *Administrator, Inspectors or Law enforcement officers* shall advise the owner or occupant that such owner or occupant is not required to grant entry without the presentation of an administrative search warrant.

(G.O. 63, 2005)

**Sec. 730-504. Stop-work order.**

- (a) The *Administrator* or his duly authorized designee is empowered to issue an order requiring the suspension of land improvement of any kind when any of the following circumstances exist:
  - (1) *Site improvement* is occurring without an Improvement Location Permit or any other permit required by a zoning ordinance having first been obtained;

- (2) *Site improvement* is occurring in violation of the terms or conditions of any special exception or variance granted under the metropolitan development law as contemplated by IC 36-7-4; in violation of conditions imposed by the Plat Committee under the metropolitan development law; in violation of covenants made in connection with the platting of a subdivision that is approved by the Plat Committee; in violation of commitments made in accordance with IC 36-7-4-607 or IC 36-7-4-921; or in violation of the terms, conditions or provisions of any Marion County zoning ordinance; and
  - (3) *Site improvement* is occurring for which a certificate of appropriateness from the Indianapolis Historic Preservation Commission is required pursuant to IC 36-7-11.1-1 et seq., without a certificate of appropriateness having first been issued.
  - (b) The stop-work order shall be posted on the property in a conspicuous place, or personally delivered to the owner, possessor, person in charge, or person causing the violation and state the conditions under which construction or other activity may be resumed. The *Administrator* or his duly authorized designee shall meet with the recipient of a stop-work order upon request to explain the conditions under which construction or other activity may be resumed.
  - (c) The *Designated enforcement entity* may institute a suit in a court of competent jurisdiction to enforce the provision of a stop-work order.
  - (d) Enforcement activity may be pursued against owner, possessor, person in charge, person causing the violation, or combination thereof.
- (G.O. 3, 2007)

**Sec. 730-505. Civil zoning violations.**

- (a) It shall be unlawful for any person who is the owner or contract vendee of, or who has a possessory interest in, real property located in Marion County to cause, suffer or allow any of the following civil zoning violations to occur on such property:
- (1) The location, erection, or maintenance of any sign not specifically permitted by Chapter 734 of this Code;
  - (2) The failure to obtain an Improvement Location Permit when one is required by the terms and provisions of Article III of this chapter;
  - (3) The outdoor storage of junk, trash, or debris in any *zoning district*, the provisions of which do not specifically permit such a use;
  - (4) The outdoor storage of *Inoperable vehicles* or vehicle parts in any *zoning district*, the provisions of which do not specifically permit such a use;
  - (5) The parking or storage in any *zoning district*, the provisions of which do not specifically permit such a use, of any vehicle used or designed (a) for use in pulling, towing, hauling, transporting, or (b) as a temporary or permanent base, platform or support for equipment, machinery, materials or other goods. This provision shall include but not be limited to school buses, buses used for public transportation, stake body trucks, dump trucks, trucks or tractors having dual rear wheels or more than two (2) axles, semi-trailer tractors, semi-trailers and trailers having dual rear wheels or more than one (1) axle or having an overall length of more than twelve (12) feet. However, this provisions does not apply to motor vehicles which do not exceed the three-quarter ton load classification in size and which are the sole vehicular transportation for a resident of the property upon which the commercial motor vehicle is parked or stored;
  - (6) The outdoor storage or display of merchandise or goods in any *zoning district*, the provisions of which do not specifically permit such a use or in violation of *zoning district* development standards regulating such use;
  - (7) The conduct of any activity in a dwelling *zoning district*, not specifically enumerated as a permitted primary or accessory use in that *zoning district*, and which activity has not been legally established by a currently valid variance, special exception or other approval grant;
  - (8) Failure to comply with *zoning district* development standards, including but not limited to landscaping, paving or striping of parking areas, minimum parking space requirements, dumpster enclosure, fencing or screening requirements;
  - (9) The failure to comply with the terms, provisions, conditions or commitments of a variance grant, special exception, rezoning ordinance, or other approval grant.
- (b) Each day a civil zoning violation remains uncorrected constitutes a second or subsequent violation. It shall be a defense to an action to enforce a civil zoning violation that the use or activity alleged to be a civil zoning violation is a legally established nonconforming use.

(G.O. 63, 2005; G.O. 3, 2007)

**Sec. 730-506. Civil zoning violations; enforcement.**

- (a) The first civil zoning violation in a twelve-month period shall be subject to admission of violation and payment of the designated civil penalty through the ordinance violations bureau in accordance with Chapter 103 of this Code.
  - (b) In addition to the procedures listed in Chapter 103 of this Code, a person who has been cited for a violation of this section may elect to file a *Land use petition*. The filing of a *Land use petition*, or subsequent issuance of a variance, special exception, rezoning or other approval of the *Land use petition*, shall not constitute a defense of any civil zoning violation which occurs prior to the issuance of the variance, special exception, rezoning or other approval.
  - (c) All second and subsequent violations in a twelve-month period are subject to the enforcement procedures and penalties provided in section 103-3 of this Code.
- (G.O. 3, 2007)

**Sec. 730-507. Conflict of ordinance; severability, partial invalidity.**

- (a) If this article is in conflict with any existing ordinance, or any amendment thereof, the one which establishes a higher standard for promotion and protection of public health, safety, comfort, morals, convenience, and general public welfare overrides the other.
- (b) If for any reason any article, division, section, subsection, sentence, clause, phrase, or word of this article should be declared unconstitutional or invalid for any reason whatsoever, such decision shall not affect the remaining portions of this article which shall remain in full force and effect; therefore, the provisions of this article are hereby declared severable.